

Attorneys for Dallas County

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

Case No. 05-81991-BJH-13

Chapter 13

Pre-Hearing: Sept. 21, 2006 at 8:30 a.m.
Final Hearing: Sept. 21, 2006 at 2:00 p.m.

**DALLAS COUNTY’S OBJECTION TO CONFIRMATION OF
DEBTOR’S “FINAL” CHAPTER 13 PLAN AND MOTION FOR VALUATION**

TO THE HONORABLE COURT:

Now comes Dallas County and files this Objection to Confirmation of Debtor's "Final" Chapter 13 Plan and Motion for Valuation, dated July 31, 2006, and in support thereof would respectfully show the Court as follows:

1. Dallas County is the holder of a claim in the amount of \$1,677.75 for unpaid 2005 ad valorem taxes on the Debtor's real property described as Block 4, Lot 20, Crestpark Club Estates 3 Addition, City of Farmers Branch, Dallas County, Texas, commonly known as 4014 Kerr Circle. This claim is secured by liens on the property pursuant to sections 32.01 and 32.05 of the Texas Property Tax Code.

2. The Debtor's Final Chapter 13 Plan does not adequately provide for the claim of Dallas County. Dallas County's claim is treated as a secured claim in the amount of \$1,677.75 to be paid pro-rata through the Plan with interest at the rate of 8.00% per annum and secured by collateral with a value of \$1,677.75.

VALUATION

3. The collateral securing Dallas County's claim should be valued in accordance with the Dallas Central Appraisal District certified market value absent the Debtor providing other evidence as to value. The Dallas Central Appraisal District has certified the 2005 market value of the Debtor's property to be \$165,230.00.

4. By providing a value for Dallas County's collateral in an amount equal to Dallas County's claim, the Debtor is depriving Dallas County of its status as an over-secured creditor entitled to interest from the petition date pursuant to 11 U.S.C. §506(b). See U.S. v. Ron Pair Enterprises, 489 U.S. 235 (1989). This case has been pending since October 2005, so that is approximately eleven months' worth of interest Dallas County would be deprived of if the Debtor's valuation is accepted by the Court.

INTEREST

5. The Debtor's Plan provides for Dallas County's secured claim to be paid with interest at the rate of 8.00% per annum. This rate of interest is not sufficient to provide Dallas County with the present value of its claim pursuant to 11 U.S.C. §1325(a)(5). See *Till et ux. v. SCS Credit Corp.*, 541 U.S. 465 (2004). According to the Wall Street Journal, the current prime rate is 8.25% per annum.¹ Considering such factors as the fact Dallas County is an involuntary creditor and did not negotiate a rate of interest or other protections to "loan" the Debtors money, the fact that Dallas County does not have insurance to protect against non-payment, such as mortgage insurance, and the fact Dallas County is likely not the loss-payee on any insurance on the property (assuming the Debtors maintain insurance on the property), Dallas County requests that its claim be paid through the Plan with interest at a minimum rate of 9.25% per annum.

¹ Obtained from <http://www.bankrate.com/brm/ratewatch/leading-rates.asp>.

WHEREFORE, based on the foregoing, Dallas County respectfully requests the Court enter an Order denying confirmation of the Debtor's Plan unless and until the Debtor amends the Plan to provide for the claim of Dallas County in the amount of \$1,677.75 to be paid through the Plan on a pro-rata basis with interest at the rate of 9.25% per annum and secured by collateral with a value of \$165,230.00.

Dated: September 13, 2006.

Respectfully submitted,

Linebarger Goggan Blair & Sampson, LLP
2323 Bryan Street, Suite 1600
Dallas, Texas 75201
(214) 880-0089 Telephone
(469) 221-5002 Facsimile
dallas.bankruptcy@publicans.com

By: /s/ Sherrel K. Knighton
Sherrel K. Knighton
Tex. Bar No. 00796900

Attorneys for Dallas County

Certificate of Conference

I hereby certify that on August 21, 2006, I sent correspondence to Leonard J. Robison, counsel for the Debtor, concerning this matter. No resolution has been reached, therefore, a hearing on this matter is necessary.

/s/ Sherrel K. Knighton
Sherrel K. Knighton

Certificate of Service

I hereby certify that, I caused a true and exact copy of the foregoing to be served upon Leonard J. Robison, counsel for Debtor, the Debtor, and the Chapter 13 Trustee, electronically or by first class U.S. mail on September 13, 2006.

/s/ Sherrel K. Knighton
Sherrel K. Knighton

Leonard J. Robison, Esq.
Perlman & Robison
3626 N. Hall Street, Suite 610
Dallas, TX 75219

Monrow L. Trammell
4014 Kerr Circle
Farmers Branch, TX 75244

Thomas D. Powers, Esq.
Chapter 13 Trustee
125 E. John Carpenter Fwy, Suite 1100
Irving, TX 75062